

## **DEPARTMENT OF THE ARMY PERMIT**

Permittee: The General Public in Minnesota

Permit No. GP/LOP-98-MN

Issuing Office: St. Paul District U.S. Army Corps of Engineers

**Issuance Date:** January 31, 2000

**Expiration Date:** January 31, 2005

NOTE: The term "you" and its derivatives, as used in this permit, means the permittee or any future transferee. The term "this office" refers to the appropriate district or division office of the Corps of Engineers having jurisdiction over the permitted activity or the appropriate official of that office acting under the authority of the commanding officer.

**GENERAL PERMIT AUTHORIZATION:** The general public in the State of Minnesota is hereby authorized to perform work in accordance with the terms and conditions of the general permit (GP) specified below, without notifying or receiving confirmation from the Corps of Engineers.

### **IMPLEMENTATION OF SECTION 404 LETTER OF PERMISSION PROCEDURES:**

Effective upon the issuance date above, the general public in the State of Minnesota may request Section 404 authorization from the St. Paul District under the Section 404 Letter of Permission (LOP) procedures specified in the LOP Section of this permit.

IMPORTANT: All GP and LOP authorizations under GP/LOP-98-MN are subject to the standard and general conditions specified below. In addition, LOP authorizations may be subject to project-specific special conditions which will be specified in the St. Paul District's letter of permission for the project. Refer to the GP/LOP-98-MN CRITERIA AND PROCEDURES below for a description of GP and LOP procedures, eligible activities, conditions, exclusions and application instructions.

**PROJECT DESCRIPTION AND LOCATION:** GP/LOP-98-MN applies to certain discharges of dredged and/or fill material, into waters of the United States at various locations and as described herein, in the State of Minnesota except within the exterior boundaries of Indian Reservations.

### **General Conditions:**

1. The time limit for completing work authorized by the GP provisions of GP/LOP-98-MN ends upon the expiration date of GP/LOP-98-MN. The time limit for completing work authorized by the LOP provisions herein ends upon the expiration date of GP/LOP-98-MN or two years after the date of the Corps authorization of the work under GP/LOP-98-MN,

whichever occurs later. If you find that you need more time to complete the authorized activity, submit your request for a time extension to this office for consideration at least three months before the expiration date is reached.

2. You must maintain the activity authorized by GP/LOP-98-MN in good condition and in conformance with the terms and conditions of this permit. You are not relieved of this requirement if you abandon the permitted activity, although you may make a good faith transfer to a third party. Should you wish to cease to maintain the authorized activity or should you desire to abandon it without a good faith transfer, you must obtain a modification of this permit from this office, which may require restoration of the area.

3. If you discover any previously unknown historic or archaeological remains while accomplishing the activity authorized by GP/LOP-98-MN, you must immediately stop work and notify this office of what you have found. We will initiate the Federal and state coordination required to determine if the remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.

4. You must allow representatives from this office to inspect the authorized activity at any time deemed necessary to ensure that it is being or has been accomplished in accordance with the terms and conditions of GP/LOP-98-MN.

5. Refer to the GP/LOP-98-MN Standard Conditions at the end of this document.

#### Further Information:

1. Congressional Authorities: You have been authorized to undertake the activity described above pursuant to Section 404 of the Clean Water Act (33 U.S.C. 1344).

2. Limits of this authorization.

a. GP/LOP-98-MN does not obviate the need to obtain other Federal, state, or local authorizations required by law.

b. GP/LOP-98-MN does not grant any property rights or exclusive privileges.

c. GP/LOP-98-MN does not authorize any injury to the property or rights of others.

d. GP/LOP-98-MN does not authorize interference with any existing or proposed Federal project.

3. Limits of Federal Liability. In authorizing work, the Federal Government does not assume any liability, including for the following:

a. Damages to the permitted project or uses thereof as a result of other permitted or unpermitted activities or from natural causes.

b. Damages to the permitted project or uses thereof as a result of current or future activities undertaken by or on behalf of the United States in the public interest.

c. Damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit.

d. Design or construction deficiencies associated with the permitted work.

e. Damage claims associated with any future modification, suspension, or revocation of this permit.

4. Reliance on Applicant's Data: The determination of this office that issuance of this permit is not contrary to the public interest was made in reliance on the information you provided.

5. Reevaluation of Permit Decision. This office may reevaluate its decision on this permit at any time the circumstances warrant. Circumstances that could require a reevaluation include, but are not limited to, the following:

a. You fail to comply with the terms and conditions of this permit.

b. The information provided by you in support of your permit application proves to have been false, incomplete, or inaccurate (see 4 above).

c. Significant new information surfaces which this office did not consider in reaching the original public interest decision. Such a reevaluation may result in a determination that it is appropriate to use the suspension, modification, and revocation procedures contained in 33 CFR 325.7 or enforcement procedures such as those contained in 33 CFR 326.4 and 326.5. The referenced enforcement procedures provide for the issuance of an administrative order requiring you to comply with the terms and conditions of your permit and for the initiation of legal action where appropriate. You will be required to pay for any corrective measures ordered by this office, and if you fail to comply with such directive, this office may in certain situations (such as those specified in 33 CFR 209.170) accomplish the corrective measures by contract or otherwise and bill you for the cost.

6. Extensions. General condition 1., above, establishes a time limit for the completion of the activity authorized by this permit. Unless there are circumstances requiring either a prompt completion of the authorized activity or a reevaluation of the public interest decision, the Corps will normally give favorable consideration to a request for an extension of this time limit.

This permit becomes effective when the Federal official, designated to act for the Secretary of the Army, has signed below.

\_\_\_\_\_  
(DISTRICT ENGINEER)

\_\_\_\_\_  
(DATE)

Kenneth S. Kasprisin  
Colonel, Corps of Engineers  
District Engineer

## **GP/LOP-98-MN TERMS AND PROCEDURES**

**As a general rule, all discharges of fill or dredged material into any wetland or water area require a Section 404 permit from the Corps of Engineers. Persons proposing such work should especially note that, in ALL cases including the non-reporting general permits, GP/LOP-98-MN requires that adverse impacts on water and wetland resources be avoided and minimized to the maximum extent practical. Discharges into certain waters defined below or that would adversely affect Federal endangered plant or animal species or certain cultural or archaeological resources, or that would impinge or abrogate reserved Native American treaty rights including, but not limited to, reserved water rights and treaty fishing and hunting rights, are not eligible for authorization under GP/LOP-98-MN.**

**Project proponents should carefully read all of the GP and LOP sections below, and pay special attention to the GP/LOP-98-MN OTHER PROVISIONS and GP/LOP-98-MN STANDARD CONDITIONS sections of this permit. These provisions and conditions apply to all GP/LOP-98-MN authorizations, including the non-reporting GPs.**

**The St. Paul District WWW site (<http://www.mvp.usace.army.mil>) will contain information that is helpful for applicants.**

### **GENERAL PERMIT (GP) SECTION**

This section describes the Section 404 general permit authorization implemented by the St. Paul District as part of GP/LOP-98-MN.

#### **1. ACTIVITIES EXCLUDED FROM THE GP:**

A. The following activities are not authorized under the GP but may be eligible for authorization under GP/LOP-98-MN LOP procedures.

1. activities that would impact greater than 400 square feet of water or wetland area in, or in wetlands adjacent to and within 300 feet of:

a. lakes listed in the MDNR Public Waters Inventory that are greater than 10 acres in size;

b. waterbodies that are designated as a trout water by Minnesota Chapter 6262; or

c. state-designated Outstanding Resource Value Waters (ORVWs). In addition, all regulated activities in ORVWs that are calcareous fens require evaluation under Corps individual permit procedures with NO exceptions.

Lists of Minnesota ORVWs and trout waters may be obtained through links at the Corps Internet WWW permit site at <http://www.mvp.usace.army.mil>. These waters can also be identified by contacting the local office of the Minnesota Department of Natural Resources or the Corps.

OIL AND HAZARDOUS SPILLS: The GP at 3.F. below is not covered by the above exclusions and such spill containment and cleanup activities may proceed without delay. However, the District must be notified of the nature and location of the spill as soon as practical.

EXISTING PUBLIC ROADS AND UTILITIES AND BANK PROTECTION PROJECTS: The above exclusions do not apply to discharges for maintenance of existing public roads and utilities or bank protection projects, provided that no discharge is in or within 300 feet of a calcareous fen (all activities in these areas require evaluation under individual permit procedures) and, any discharge in wetlands within 300 feet of state-designated trout streams in Carver, Dakota, Dodge, Fillmore, Freeborn, Goodhue, Houston, Mower, Olmstead, Rice, Scott, Steele, Wabasha, Winona, and Washington counties is part of a maintenance project that either requires a permit from the Minnesota Department of Natural Resources (MDNR) or is reported to the MDNR Area Fisheries Manager for the project area by the project proponent at least 5 calendar days before work begins. B. The GP authorization is not valid for any activities that:

1. would permanently alter over 500 linear feet of a natural watercourse by channelization or diversion; or

2. would include the discharge of demolition material (as defined by Minn. R. 7035.0300, Subp. 30), or contaminated or polluted sediments into water or wetland areas, unless specifically authorized by the Minnesota Pollution Control Agency; or

3. are in a calcareous fen, or are in wetlands adjacent to and within 300 feet of, a calcareous fen designated by the state;

4. are in a Federally-designated Wild and Scenic River, or

5. are part of a project that would divert more than 10,000 gallons per day of surface or ground water into or out of the Great Lakes Basin.

#### **2. HOW TO RECEIVE A GP AUTHORIZATION UNDER GP/LOP-98-MN:**

An activity authorized by this GP may commence when project proponents have carefully confirmed that the activity will be conducted in compliance with all of the terms and conditions of GP/LOP-98-MN, including the standard and general conditions. No application to the Corps is required; however, if requested, the Corps will confirm whether or not proposed work is authorized by the GP. Persons proposing to do work should note that conditions of the GP require that adverse impacts on water and wetland resources be avoided and minimized to the maximum extent practical. Activities that would adversely affect Federal endangered plant or animal species or certain cultural/archaeological resources are not authorized by GP/LOP-98-MN. Information about Federal Endangered species may be obtained by contacting the U. S. Fish and Wildlife Service at (612) 725-3548. The District's WWW site (<http://www.mvp.usace.army.mil>) will also contain a link to the U.S. Fish and Wildlife Service list of Federal endangered Species for each Minnesota county. Information concerning cultural

resources may be obtained by contacting the State Historic Preservation Office at (651) 296-5462. Project proponents are encouraged to contact these agencies early in project planning because doing so can help avoid violations of Federal law and potentially lengthy project delays. Persons performing work should be aware that Federal or state regulations concerning endangered species and cultural resources may apply to their projects whether or not the work requires a Corps permit.

### **3. ACTIVITIES AUTHORIZED BY THE GP (unless excluded at 1. above):**

A. Maintenance activities. Discharges of dredged or fill material for the repair, rehabilitation, or replacement of any previously authorized, currently serviceable, structure or fill that affect not more than 1/3 acre of wetland/water area that has not been already disturbed by the structure or fill to be maintained. Minor deviations, up to the 1/3 acre limit, are allowed where necessary to conform with modern construction practices, materials, construction codes, or safety standards. Discharges to repair or replace structures destroyed by storms, floods, fire or other discrete events are included, provided they are commenced or under contract to commence within two years of the date that the damage occurred. (Maintenance activities that exceed the 1/3 acre limit may be eligible for authorization under a LOP below).

B. Bank Stabilization. Discharges of dredged or fill material for bank stabilization activities necessary for erosion prevention provided that no material is placed in wetlands and the bank stabilization activity is less than 500 feet in length and will not exceed an average of one cubic yard per running foot placed along the bank below the plane of the ordinary high water mark. (Bank stabilization projects that exceed the 500 feet or one cubic yard per running foot limits may be eligible for authorization under LOP procedures below).

C. Utility Line Discharges. Discharges of dredged or fill material associated with excavation, backfilling or bedding for electric, natural gas, fiber-optic, water and stormwater and sanitary sewer utility

lines, including associated outfall and intake structures, provided that there is no change in preconstruction contours, no landclearing in more than 10,000 square feet of forested wetland, and the portion of the utility line that is in waters of the U.S. is not more than 500 feet long. The utility line project may not cause any wetland drainage. (Utility lines that carry other substances or that do not meet all of these conditions may be eligible for authorization under LOP procedures below).

D. U.S. Coast Guard Approved Bridges. Discharges of dredged or fill material incidental to the construction of bridges across navigable waters of the United States, including cofferdams, abutments, foundation seals, piers, and temporary construction and access fills provided such discharges have been authorized by the U.S. Coast Guard as part of the bridge permit. Causeway and approach fills are not included.

E. Return Water From Upland Contained Disposal Areas. Return water from an upland contained dredged material disposal area where the discharge has been approved by the Minnesota Pollution Control Agency.

F. Oil Spill Cleanup. Activities required for the containment and cleanup of oil and hazardous substances which are subject to the National Oil and Hazardous Substances Pollution Contingency Plan.

G. Structural Discharges. Discharges of material such as concrete, sand, rock, etc. into tightly sealed forms or cells where the material will be used as a structural member such as a utility pole, bridge support, ramp surface, or retaining wall. This activity does not include building foundations or other structures such as pilings intended for use as building supports, or any structure that would occupy more than 1,000 square feet of wetland area.

H. Completed Enforcement Actions. Discharges of dredged or fill material, remaining in place, or undertaken for mitigation, restoration, or environmental benefit in compliance with the terms of a final written Corps non-judicial settlement agreement resolving a Section 404 violation or the terms of an EPA 309(a)

order or consent resolving a violation of Section 404 of the CWA, and that require Section 404 authorization from the Corps of Engineers. This GP covers only those discharges not authorized under EPA's statutory authority under Section 309(a) of the Clean Water Act.

I. Stream and Wetland Restoration Activities. Activities in waters of the United States associated with the restoration and enhancement of former non-tidal wetlands and riparian areas, the enhancement of degraded wetlands and riparian areas, the creation of wetlands and riparian areas, and the restoration and enhancement of non-Section 10 streams and open water areas; (i) on non-Federal public lands and private lands, in accordance with the terms and conditions of a binding wetland enhancement, restoration or creation agreement between the landowner and the U.S. Fish and Wildlife Service or the Natural Resources Conservation Service (NRCS) or voluntary wetland restoration, enhancement, and creation actions documented by the NRCS pursuant to NRCS regulations; or (ii) on any Federal land; or (iii) on reclaimed surface coal mined lands, in accordance with a Surface Mining Control and Reclamation Act permit issued by the Office of Surface Mining or the applicable State agency. (The future reversion discussed below does not apply to streams or wetlands created, restored or enhanced as mitigation for the mining impacts, nor naturally due to hydrologic or topographic features, nor for a mitigation bank.); or (iv) by or funded by a state agency on any public or private land. Such activities include, but are not limited to, the removal of accumulated sediments, the installation, removal and maintenance of small water control structures, dikes and berms; the installation of current deflectors; the enhancement, restoration, or creation of riffle and pool stream structure; the placement of in-stream habitat structures; modifications of the stream bed and/or banks to restore or create stream meanders; the backfilling of artificial channels and drainage ditches; the removal of existing drainage structures; the construction of small nesting islands; the construction of open water areas; activities needed to reestablish vegetation, including plowing or disking for seed bed preparation;

mechanized land-clearing to remove undesirable vegetation; and other related activities. This GP cannot be used to authorize activities for the conversion of a stream to another aquatic use, such as the creation of an impoundment for waterfowl habitat. This GP cannot be used to channelize a stream and does not authorize the conversion of natural wetlands to another aquatic use, such as creation of waterfowl impoundments where a forested wetland previously existed. However, this GP may be used to relocate aquatic habitat types on the project site, provided there are net gains in aquatic resource functions and values. For example, this GP may authorize the creation of an open water impoundment in an emergent wetland, provided the emergent wetland is replaced by creating that wetland type in the adjacent uplands. Reversion: For enhancement, restoration and creation projects conducted under paragraphs (ii) and (iv), this GP does not authorize any future discharge of dredged or fill material associated with the reversion of the area to its prior condition. In such cases a separate permit at that time would be required for any reversion. For restoration, enhancement and creation projects conducted under paragraphs (i) and (iii), this LOP also authorizes any future discharge of dredged or fill material associated with the reversion of the area to its documented prior condition and use (i.e., prior to the restoration, enhancement, or creation activities) within five years after expiration of a limited term wetland restoration or creation agreement or permit, even if the discharge occurs after this LOP expires. The five year reversion limit does not apply to agreements without time limits reached under paragraph (i). The prior condition will be documented in the original agreement or permit, and the determination of return to prior conditions will be made by the Federal agency or appropriate State agency executing the agreement or permit. Prior to any reversion activity the permittee or the appropriate Federal or State agency must notify the District Engineer and include the documentation of the prior condition. Once an area has reverted back to its prior physical condition, it will be subject to whatever the Corps regulatory requirements will be at that future date. Because projects that would be authorized by this permit

are designed to enhance the aquatic environment, mitigation will not be required for the work.

J. Moist soil management for wildlife. Discharges of dredged or fill material and maintenance activities that are associated with moist soil management for wildlife performed on Federally/tribal-owned or managed and state-owned or managed property, for the purpose of continuing ongoing, site-specific, wildlife management activities where soil manipulation is used to manage habitat and feeding areas for wildlife. Such activities include, but are not limited to: the repair, maintenance or replacement of existing water control structures; the repair or maintenance of dikes; and plowing or disking to impede succession, prepare seed beds, or establish fire breaks. Sufficient vegetated buffers must be maintained adjacent to all open water bodies, streams, etc., to preclude water quality degradation due to erosion and sedimentation. This GP does not authorize the construction of new dikes, roads, water control structures, etc. associated with the management areas. This GP does not authorize converting wetlands to uplands, impoundments or other open water bodies.

K. Minor discharges (that impact 400 square feet or less of wetland/water area) for other purposes. Discharges of dredged/fill material, for a single and complete project, that would result in filling, draining, or inundating not more than 400 square feet of wetland/water area. This authorization may NOT be used more than once by the permittee or property owner so as to impact more than 400 square feet of the same wetland basin or waterbody.

## **LETTER-OF-PERMISSION (LOP) SECTION**

This section describes the Section 404 Letter of Permission authorization procedures implemented as part of GP/LOP-98-MN by the St. Paul District in accordance with 33 CFR 325.2(e)(1).

### **1. EXCLUSIONS FROM LOP AUTHORIZATIONS:**

The following activities are not

authorized under LOP provisions of GP/LOP-98-MN.

A. Any discharge of dredged and/or fill material into a calcareous fen, or into wetlands adjacent to and within 300 feet of a calcareous fen, as officially designated by the state. Such discharges require evaluation under individual permit procedures.

B. Any discharge of dredged and/or fill material in Federally-designated Wild and Scenic Rivers. Such discharges require evaluation under individual permit procedures.

C. . Any activity that is part of a project that would divert more than 10,000 gallons per day of surface or ground water into or out of the Great Lakes Basin.

### **2. HOW TO APPLY FOR A LOP AUTHORIZATION UNDER GP/LOP-98-MN:**

An application to the Corps is required for all LOPs. Projects are not authorized until the Corps has issued a letter of permission specifically for the project. Applicants are encouraged to use the joint Federal-State application form that is available from local or state MDNR, BWSR or Corps offices, or may use the Federal permit application form available at Corps offices. For some projects, as noted below, the Corps will conduct interagency/public coordination to receive comments and information about the proposed project. All authorized work must be conducted in compliance with all of the terms and conditions of GP/LOP-98-MN.

Applicants are encouraged to help speed the Corps evaluation and increase the chance of receiving a favorable interagency review and authorization by including information with their application that clearly shows that the proposed work is the least environmentally damaging way that is practical to accomplish the purpose of the project. The Corps must generally deny any permit request unless the applicant demonstrates, and the Corps evaluation confirms, that the work proposed is the least environmentally damaging way that is practical to accomplish the project purpose and that

impacts to wetland/water areas cannot reasonably be avoided or further minimized. The Corps must also deny authorization for any regulated activity that the Corps determines is contrary to the public interest.

The LOPs at B., C. and D. below may require a **wetland delineation** done in accordance with the 1987 CORPS OF ENGINEERS WETLAND DELINEATION MANUAL before the application will be considered complete. The applicant may ask the Corps to prepare the delineation; however, applicants are encouraged to obtain the services of professional consultants as noted below to avoid delays.

Applicants for the LOPs at B., C. and D. below should also note **compensatory mitigation requirements** and if required, include detailed information about how they propose to provide compensatory mitigation to offset the adverse wetland impacts of the project. For many small projects, a monetary contribution to in-lieu fee mitigation or use of a mitigation bank may satisfy the compensatory mitigation requirement. Compensatory mitigation that is proposed to satisfy state or local requirements may, but will not necessarily, also satisfy the Federal requirement.

Applicants are encouraged to obtain the services of professional consultants in planning projects and preparing applications, wetland delineations and compensatory mitigation plans. The Corps maintains a list of consultants that is available on request. Applicants are advised that activities that adversely affect Federal Endangered plant or animal species or important cultural resources are not authorized under GP/LOP-98-MN. Information about Federal Endangered species may be obtained by contacting the U. S. Fish and Wildlife Service at (612) 725-3548. Information on cultural resources may be obtained by contacting the State Historic Preservation Office at (651) 296-5462. Applicants should contact these agencies early in the planning process because doing so can help avoid later and potentially lengthy delays in completing the Corps permit evaluation procedures.

**REPORTING REQUIREMENT:** All permittees that receive a LOP must send a COMPLIANCE CERTIFICATION to the District after the work is done as specified at paragraph 1. of the GP/LOP-98-MN STANDARD CONDITIONS ATTACHMENT.

### **3. ACTIVITIES ELIGIBLE FOR LOP AUTHORIZATION (unless excluded at 1. above):**

A. (LOP A). Discharges for bank protection and utility line projects as described in the GP/LOP-98-MN GP Section that exceed the non-reporting GP criteria, and all GP activities that are subject to the EXCLUSIONS for wetlands near lakes, trout waters and ORVW Waters or that fail to meet the channelization, diversion, or demolition/contaminated fill criteria of the GP (except that activities in the ORVWs that are also calcareous fens require evaluation under individual permit procedures) and discharges for the following specific activities:

1. Temporary construction, access and dewatering. Temporary structures, work and discharges, including cofferdams, necessary for construction activities or access fills or dewatering of construction sites; provided that the associated primary activity is authorized by the Corps of Engineers or the U.S. Coast Guard, or for other construction activities not subject to the Corps or U.S. Coast Guard regulations. Appropriate measures must be taken to maintain near normal downstream flows and to minimize flooding. Fill must be of materials, and placed in a manner, that will not be eroded by expected high flows. The use of dredged material may be allowed if it is determined by the District that it will not cause more than minimal adverse effects on aquatic resources. Temporary fill must be entirely removed to upland areas, or dredged material returned to its original location, following completion of the construction activity, and the affected areas must be restored to the pre-project conditions. Cofferdams cannot be used to dewater wetlands or other aquatic areas so as to change their use. Structures left in place after cofferdams are removed require a Section 10 permit if located in navigable waters of the U.S.

2. Cleanup of hazardous and toxic

waste. Specific activities required to effect the containment, stabilization, or removal of hazardous or toxic waste materials that are performed, ordered, or sponsored by a government agency with established legal or regulatory authority. Court ordered remedial action plans or related settlements are also authorized by this LOP. This LOP does not authorize the establishment of new disposal sites or the expansion of existing sites used for the disposal of hazardous or toxic waste. Activities undertaken entirely on a CERCLA site by authority of CERCLA as approved or required by EPA, are not required to obtain permits under Section 404 of the Clean Water Act or Section 10 of the Rivers and Harbors Act.

**EVALUATION PROCEDURES FOR LOP A.** above. The District will review each application for compliance with the LOP general conditions, complete a 404(b)(1) analysis and environmental assessment, conduct a public hearing if one is warranted, and determine the need for any special permit conditions. The District review will include a 15-day public/interagency Internet-based review for all projects that would impact more than 400 square feet of wetland/water area in the following special areas:

wetlands adjacent to and within 300 feet of lakes listed in the MDNR Public Waters Inventory that are greater than 10 acres in size; and

waterbodies that are designated as a trout water by Minnesota Chapter 6262 and wetlands that are adjacent to and within 300 feet of these trout waters; and

state-designated Outstanding Resource Value Waters (ORVWs) and wetlands that are adjacent to and within 300 feet of ORVWs.

**Federally-listed endangered species and cultural resources reviews.** The Corps review will include a determination concerning compliance of the project with Section 7 of the Endangered Species Act and Section 106 of the National Historic Preservation Act. Projects found not to comply with either Act will not be authorized under the GP or any other Corps permit authorization until actions are taken so that compliance with both Acts is assured.



The Corps Federal endangered species review will consist of Corps staff consulting appropriate reference materials including endangered species information published by the U.S. Fish and Wildlife Service (USFWS) in informational brochures and on Internet World Wide Web pages and any other available data, information or specific guidance provided by USFWS. Corps staff will be aware of locations where endangered species are known or likely to be present and of the types of activities that may affect those species. Corps staff will directly consult with USFWS staff concerning proposals which appear to have potential to affect listed species. The review will include Corps and/or USFWS site inspections of specific project sites, and/or formal Section 7 interagency consultation where necessary.

The Corps Federal cultural resources review will be conducted in a manner similar to the endangered species review. The National Register of Historic Places will be consulted to determine the presence or absence of known cultural resources. Corps regulatory staff will be aware of areas that have a high probability to contain important cultural resources and will consult Corps cultural resource staff concerning questionable projects. Corps regulatory or cultural resource staff will consult with the State Historic Preservation Officer on appropriate projects. Cultural resource surveys and/or formal consultation with the President's Advisory Council on Historic Preservation will be conducted where necessary.

The Corps LOP review will include identifying and considering potential project impacts on 100-year floodplains, impaired waters listed on state EPA TMDL Program 303(d) lists and adjacent wetlands, and resources such as wild rice that have been identified as resources of special concern to Federally-recognized Indian tribes. Corps District regulatory staff will consult with Indian tribes to identify and maintain awareness of such resources of special tribal concern.

The District will issue a letter of permission authorizing those projects found to be in compliance with all terms and conditions of GP/LOP-98-MN and the Section 404(b)(1) guidelines, provided the District determines the proposed

work is not contrary to the public interest. The District will do the level of analysis required to determine whether or not the proposal meets the authorization criteria. Projects that fail to meet any LOP authorization criteria will be denied authorization.

B. (LOP B). Activities not authorized above that impact more than 400 square feet but less than 2 acres square feet of water and/or wetland. The discharge of dredged/fill material, for a single and complete project, that would result in filling, draining, or inundating more than 400 square feet of wetland/water area, but less than 2 acres feet of wetland/water area, that complies with the LOP general conditions.

EVALUATION PROCEDURES FOR LOP B. The procedures at LOP A. above apply, except that the public/interagency Internet-based review will be 30 days and required for projects that have total wetland/water area impacts that exceed 10,000 square feet, or exceed 400 square feet area in the following areas:

wetlands adjacent to and within 300 feet of lakes listed in the MDNR Public Waters Inventory that are greater than 10 acres in size; and

waterbodies that are designated as a trout water by Minnesota Chapter 6262 and wetlands that are adjacent to and within 300 feet of these trout waters; and

state-designated Outstanding Resource Value Waters (ORVWs) and wetlands that are adjacent to and within 300 feet of ORVWs.

The District will require appropriate compensatory mitigation in accordance with paragraph 2. of the GP/LOP-98-MN OTHER PROVISIONS section.

C. (LOP C). Activities that are regulated and approved under the Minnesota Wetlands Conservation Act (MWCA) and that impact less than 2.0 acres of wetland/water area. The discharge of dredged/fill material, for a single and complete project, that would result in filling, draining, or inundating less than 2.0 acres of wetland/water area, that complies with all GP/LOP-98-MN conditions. Applicants for this LOP must

specifically elect to apply for it. This LOP may be used only in cases where the District is notified of the proposed project by the responsible local government unit (LGU) as provided by MN Rule 8420.0230 and the District is provided, either by the applicant, his agent or the LGU, a copy of the MWCA application, the final MWCA action including the MWCA avoid-minimize-compensate "sequencing" analysis, a description and quantification of all of the project's wetland impacts (both regulated and not regulated under the MWCA) and the MWCA-approved compensatory mitigation (wetland replacement) plan. This LOP may be combined with other GPs or LOPs to authorize project activities in wetlands that are not regulated under the MWCA provided that the project's total wetland impacts do not exceed the 2.0-acre project impact limit. This LOP does not apply to any project that is wholly exempt from MWCA regulation.

EVALUATION PROCEDURES FOR LOP C. The procedures at LOP A. above apply, except that the public/interagency Internet-based review will be 15 days and required for projects that have total wetland/water area impacts that exceed 10,000 square feet. The District will require appropriate compensatory mitigation in accordance with paragraph 2. of the GP/LOP-98-MN OTHER PROVISIONS section.

D. (LOP D). Public road maintenance and upgrade projects that impact not more than 5.0 acres of wetland/water area. The discharge of dredged/fill material for the maintenance or upgrade of existing public roads within established transportation corridors that would result in filling, draining, or inundating not more than 5.0 acres of wetland/water area and that complies with the LOP general conditions.

EVALUATION PROCEDURES FOR LOP D.

The procedures at LOP A. above apply, except that the public/interagency Internet-based review will be 30 days and required for all projects that have total wetland/water area impacts that exceed 10,000 square feet. The District will require appropriate compensatory mitigation in accordance with paragraph 2. of the GP/LOP-98-MN OTHER

PROVISIONS section.

## **GP/LOP-98-MN, OTHER PROVISIONS**

### **1. PUBLIC/INTERAGENCY COORDINATION PROCESS.**

For GP/LOP-98-MN applications that are subject to the public/interagency review process, the District will, within 1 to 5 work days of receipt of a complete application and for the time periods noted under the LOPs above, publish notice of the application on an Internet World Wide Web page that is available to the coordinating agencies and the general public. This notice will also be emailed to coordinating agencies that request to receive such notice. At a minimum, the notice will identify the applicant, project location and nature, approximate impacts, and any proposed/required compensatory mitigation. The notice will include a brief project description and describe how to respond to the appropriate District regulatory project manager for the activity. Coordinating agencies in Minnesota are Indian Tribes that may be affected by the proposal, the Department of Natural Resources, the Pollution Control Agency, the Minnesota Coastal Zone Program, the State/Tribal Historical Preservation Officer, the U.S. Environmental Protection Agency, and the U.S. Fish and Wildlife Service. The District will consider all comments and information received during the public/interagency review in completing its evaluation of the proposed activity.

### **2. COMPENSATORY MITIGATION REQUIREMENTS.**

Under GP/LOP-98-MN, appropriate compensatory mitigation is required, in accordance with applicable Federal regulation and policy, on a minimum 1:1, acre-for-acre basis for wetland impacts of LOP projects that impact more wetland than shown for the following areas, as designated pursuant to the Minnesota Wetlands Conservation Act:

400 square feet in a shoreland wetland protection zone,

2,000 square feet in a "less-than-50 percent" county,

5,000 square feet in a "50%-to-80%" county, and

10,000 square feet in a "greater than 80%" county.

When the above project thresholds are exceeded, the compensatory mitigation requirement applies to the project's total wetland impacts, including the threshold amounts specified above. Use of Corps-approved mitigation banks and in-lieu fee procedures may generally be acceptable methods of providing compensatory mitigation for small projects having compensatory mitigation requirements of 1/4 acre or less. However, the District will determine appropriate compensatory mitigation requirements on a case-by-case basis in accordance with Federal guidelines and established District policy.

Compensatory mitigation required by other Federal or state programs may, but will not necessarily, satisfy this Clean Water Act requirement. Acreage data concerning project impacts and compensatory mitigation will be recorded in the District database for monitoring, impact analysis, and program evaluation purposes.

### **3. FEDERAL TRUST RESPONSIBILITY TO INDIAN TRIBES.**

Projects the District finds to have potential to affect tribal interests will be coordinated with the appropriate Indian Tribal governments. The Tribe's views and the Federal trust responsibility will be considered in the District's evaluation. Throughout the state, including the treaty-ceded territories, the District review of all provisional LOP and programmatic GP projects which impact more than 10,000 square feet of wetland/water area will include coordination with any potentially affected tribe(s). The District will provide, by facsimile transmission, project notifications to the concerned tribe(s) for a 30-day review period. The views of the tribe(s) will be considered in the District's evaluation of the activity and in the District's determination of whether the activity is in compliance with GP/LOP-98 Standard Condition 18. that prohibits activities, or their operation, that may impinge or abrogate treaty rights, including, but not limited to, reserved treaty fishing and hunting rights.

### **4. PROJECT-SPECIFIC GP/LOP-98-MN CONDITIONS.**

The District evaluation will identify any need for special

conditions to minimize adverse project impacts and/or protect the public interest.

### **5. FORM AND CONFIRMATION OF AUTHORIZATION.**

Every LOP authorization will be confirmed by the St. Paul District sending the project proponent a letter of permission. The letter will identify any required special conditions.

### **6. ENDANGERED SPECIES AND CULTURAL RESOURCES.**

GP/LOP-98-MN does not affect the Corps responsibility to insure that all Section 404 authorizations comply with Section 7 of the Federal Endangered Species Act and Section 106 of the National Historic Preservation Act. No Corps GP or letter of permission will be granted for projects found not to comply with these Acts.

### **7. GRANDFATHER PROVISION.**

Commenced activities that are authorized under the nationwide permits and activities previously confirmed by the District in writing to be authorized under the nationwide permits or GP-17-MN continue to be authorized, under the terms of the permits that existed at the time of original confirmation of authorization, for two years after the issuance date of GP/LOP-98-MN.

### **8. PERIODIC INTERAGENCY REVIEW.**

The St. Paul District will conduct an interagency review to evaluate the performance of GP/LOP-98-MN after it has been in effect for one year. The St. Paul District may use its authority to modify, revoke, suspend or propose any Section 404 authorization after the annual review or at any other time it determines that circumstances concerning the public interest warrant such action.

### **9. DISCRETIONARY AUTHORITY.**

The Corps retains discretionary authority to require an individual permit review of any activity eligible for authorization under GP/LOP-98-MN based on concern for the aquatic environment or for any other factor of the public interest.

### **10. DEFINITION OF SINGLE AND COMPLETE PROJECT.**

For purposes of GP/LOP-98-MN, the term, "single and complete project" means the total project proposed by the project proponent. For

example, if construction of a residential development or linear project such as a road or utility line affects several different areas of waters of the U.S., the cumulative total of all filled areas is the basis for deciding the project's total wetland/water impact. For "phased" developments, each phase may constitute a single and complete project if it has independent utility and would accomplish its intended purpose whether or not other phases were constructed.

## **GP/LOP-98-MN STANDARD CONDITIONS**

In addition to the preceding general conditions, all GP/LOP-98-MN authorizations are subject to the following standard conditions, as applicable. These conditions must be satisfied for any GP/LOP-98 authorization, both GPs and LOPs, including the non-reporting GPs, to be valid:

1. **Compliance Certification**. Under all LOP authorizations of GP/LOP-98-MN authorizations, the permittee must submit a compliance certification to the St. Paul District within 30 days of completion of the work. The District will include a certification form with its authorization letters. Permittees may also obtain this form by contacting the St. Paul District. This requirement does not apply to GP authorizations under GP/LOP-98-MN.

2. **Case-by-case conditions**. The activity must comply with any special conditions which may have been added by the District or by a state, tribe, or the U.S. Environmental Protection Agency in its section 401 water quality certification or consistency determination under the Coastal Zone Management Act. Such conditions will be specifically identified in any LOP issued for the project.

3. **Mitigation/Sequencing**. Discharges of dredged or fill material into waters of the United States **must be minimized or avoided to the maximum extent practicable**, unless the District approves a compensation plan that the District determines is more beneficial to the environment than minimization or avoidance measures.

4. **State/Tribal Water quality certification and Coastal zone**

**management (CZM) consistency determination**. Some GP/LOP-98-MN authorizations may not be valid unless and until an individual Section 401 water quality certification or CZM consistency determination is obtained from or waived by the appropriate agency. If this condition applies, it will be so noted in the District letter of permission.

5. **Suitable material**. No discharge of dredged or fill material may consist of unsuitable material (e.g., trash, debris, car bodies, asphalt, etc.) and material discharged must be free from toxic pollutants in toxic amounts (see Section 307 of the Clean Water Act).

6. **Proper maintenance**. Any structure or fill authorized shall be properly maintained, including maintenance to ensure public safety.

7. **Erosion and siltation controls**. Appropriate erosion and siltation controls must be used and maintained in effective operating condition during construction, and all exposed soil and other fills, as well as any work below the ordinary high water mark must be permanently stabilized at the earliest practicable date.

Work should be done in accordance with state-approved, published practices, such as defined in Minnesota Pollution Control Agency Document, **PROTECTING WATER QUALITY IN URBAN AREAS - BEST MANAGEMENT PRACTICES FOR MINNESOTA**.

8. **Removal of temporary fills**. Any temporary fills must be removed in their entirety and the affected areas returned to their preexisting elevation.

9. **Endangered Species**.

a. No activity is authorized which is likely to jeopardize the continued existence of a threatened or endangered species or a species proposed for such designation, as identified under the Federal Endangered Species Act, or which is likely to destroy or adversely modify the critical habitat of such species. Non-federal permittees shall notify the District if any listed species or critical habitat might be affected or is in the vicinity of the project, and shall not begin work on the activity until notified by the District that the requirements of the Endangered Species Act have been satisfied and that the activity is

authorized.

b. Authorization of an activity under GP/LOP-98 does not authorize the take of a threatened or endangered species as defined under the Federal Endangered Species Act. In the absence of separate authorization (e.g., an ESA Section 10 Permit, a Biological Opinion with incidental take provisions, etc.) from the U.S. Fish and Wildlife Service or the National Marine Fisheries Service, both lethal and non-lethal takes of protected species are in violation of the Endangered Species Act. Information on the location of threatened and endangered species and their critical habitat can be obtained directly from the offices of the U.S. Fish and Wildlife Service and National Marine Fisheries Service or their world wide web pages on the Internet.

c. If it becomes apparent that a Federally listed endangered plant or animal species will be affected by work authorized by this permit, work must be stopped immediately and the St. Paul District of the Corps of Engineers must be contacted for further instruction.

10. **Historic properties, cultural resources**. No activity which may affect historic properties listed, or eligible for listing, in the National Register of Historic Places is authorized, until the District has complied with the provisions of 33 CFR Part 325, Appendix C. The prospective permittee must include notification to the District in the permit application if the authorized activity may affect any historic properties listed, determined to be eligible, or which the prospective permittee has reason to believe may be eligible for listing on the National Register of Historic Places, and shall not begin the activity until notified by the District that the requirements of the National Historic Preservation Act have been satisfied and that the activity is authorized. Information on the location and existence of historic resources can be obtained from the State Historic Preservation Office and the National Register of Historic Places.

11. **Spawning areas**. Discharges in spawning areas during spawning seasons must be avoided to the maximum extent practicable.

**12. Obstruction of high flows.** To the maximum extent practicable, discharges must not permanently restrict or impede the passage of normal or expected high flows or cause the relocation of the water (unless the primary purpose of the fill is to impound waters).

**13. Adverse effects from impoundments.** If the discharge creates an impoundment of water, adverse effects on the aquatic system caused by the accelerated passage of water and/or the restriction of its flow shall be minimized to the maximum extent practicable.

**14. Waterfowl breeding areas.** Discharges into breeding areas for migratory waterfowl must be avoided to the maximum extent practicable.

**15. Navigation.** No activity may cause more than a minimal adverse effect on navigation.

**16. Aquatic life movements.** No activity may substantially disrupt the movement of those species of aquatic life indigenous to the waterbody, including those species which normally migrate through the area, unless the activity's primary purpose is to impound water.

**17. Equipment.** Heavy equipment working in wetlands must be placed on mats, or other measures must be taken to minimize soil disturbance.

**18. Tribal rights.** No activity or its operation may impinge or abrogate reserved treaty rights, including, but not limited to, reserved water rights and treaty fishing and hunting rights.

**19. Wild and Scenic Rivers.** No activity may occur in a component of the National Wild and Scenic River System; or in a river officially designated by Congress as a "study river" for possible inclusion in the system, while the river is in an official study status; unless the appropriate Federal agency, with direct management responsibility for such river, has determined in writing that the proposed activity will not adversely effect the Wild and Scenic River designation, or study status. Information on Wild and Scenic Rivers may be obtained from the

appropriate Federal land management agency in the area (e.g., National Park Service, U.S. Forest Service, Bureau of Land Management, U.S. Fish and Wildlife Service.)

**20. Water quality standards.** All work or discharges to a watercourse resulting from permitted construction activities, particularly hydraulic dredging, must meet applicable Federal, State, and local water quality and effluent standards on a continuing basis.

**21. Preventive measures.** Measures must be adopted to prevent potential pollutants from entering the watercourse. Construction materials and debris, including fuels, oil, and other liquid substances, will not be stored in the construction area in a manner that would allow them to enter the watercourse as a result of spillage, natural runoff, or flooding.

**22. Disposal sites.** If dredged or excavated material is placed on an upland disposal sight (above the ordinary high-water mark), the site must be securely diked or contained by some other acceptable method that prevents the return of potentially polluting materials to the watercourse by surface runoff or by leaching. The containment area, whether bulkhead or upland disposal sight, must be fully completed prior to the placement of any dredged material.

**23. Erosion control.** Upon completion or earthwork operations, all exposed slopes, fills, and disturbed areas must be given sufficient protection by appropriate means such as landscaping, or planting and maintaining vegetative cover, to prevent subsequent erosion. Cofferdams shall be constructed and maintained so as to prevent erosion into the water. If earthen material is used for coffer dam construction, sheet piling, riprap or a synthetic cover must be used to prevent dam erosion.

**24. Suitable fill material.** All fill (including riprap), if authorized under this permit, must consist of suitable material free from toxic pollutants in other than trace quantities. In addition, rock or fill material used for activities dependent upon this permit and obtained by excavation must either be obtained from existing quarries or, if a new borrow site

is opened up to obtain fill material, the State Historic Preservation Officer (SHPO) must be notified prior to the use of the new site. Evidence of this consultation with the SHPO will be forwarded to the St. Paul District Office.

**25. Cultural resources.** If cultural, archaeological, or historical resources are unearthed during activities authorized by this permit, work must be stopped immediately and the State Historic Preservation Officer must be contacted for further instruction.

**26. Water intakes/activities.** An investigation must be made to identify water intakes or other activities that may be affected by suspended solids and turbidity increases caused by work in the watercourse. Sufficient notice must be given to the owners of property where the activities would take place to allow them to prepare for any changes in water quality.

**27. Spill contingency plan.** A contingency plan must be formulated that would be effective in the event of a spill. This requirement is particularly applicable in operations involving the handling of petroleum products. If a spill of any potential pollutant should occur, it is the responsibility of the permittee to remove such material, to minimize any contamination resulting from this spill, and to immediately notify the State Duty Officer at 1-800-422-0798 and the U.S. Coast Guard at telephone number (1-800) 424-8802.

**28. Other permit requirements.** No Corps GP/LOP-98-MN authorization eliminates the need for other local, state or Federal authorizations, including but not limited to National Pollutant Discharge Elimination System (NPDES) or State Disposal System (SDS) permits from the Minnesota Pollution Control Agency.

**29. State Section 401 Certification Conditions.** The Minnesota Pollution Control Agency (MPCA) has waived certification for the specific portions of GP/LOP-98-MN that authorize wetland alteration with no requirement for wetland compensatory mitigation as would be required by Minn. Rule 7050.0186 subp. 6. The MPCA has certified the remainder of GP/LOP-98-MN

contingent on authorized activities being conducted in accordance with all applicable provisions of Minnesota Rule 7001.0150, subp. 3. Therefore, such provisions are conditions of GP/LOP-98-MN authorizations for which MPCA has granted certification. In the text of Minnesota Rule 7001.0150, subp. 3. below, the term, "agency" refers to the Minnesota Pollution Control Agency, the term "commissioner," refers to the Commissioner of MPCA, the term, "permit," means MPCA's state Section 401 certification, and the term, "permittee" refers to the person(s), agency, or organization that has been granted Federal Section 404 authorization and State water quality certification under the provisions of GP/LOP-98-MN.

#### **Minnesota Rule 7001.0150 - Terms and Conditions of Permits:**

Subp. 3. General conditions. Unless specifically exempted by statute or rule, each draft and final permit must include the following general conditions and the agency shall incorporate these conditions into all permits either expressly or by specific reference to this part:

A. The agency's issuance of a permit does not release the permittee from any liability, penalty, or duty imposed by Minnesota or federal statutes or rules or local ordinances, except the obligation to obtain the permit.

B. The agency's issuance of a permit does not prevent the future adoption by the agency of pollution control rules, standards, or orders more stringent than those now in existence and does not prevent the enforcement of these rules, standards, or orders against the permittee.

C. The permit does not convey a property right or an exclusive privilege.

D. The agency's issuance of a permit does not obligate the agency to enforce local laws, rules, or plans beyond that authorized by Minnesota statutes.

E. The permittee shall perform the actions or conduct the activity authorized by the permit in accordance with the plans and specifications

approved by the agency and in compliance with the conditions of the permit.

F. The permittee shall at all times properly operate and maintain the facilities and systems of treatment and control and the appurtenances related to them which are installed or used by the permittee to achieve compliance with the conditions of the permit. Proper operation and maintenance includes effective performance, adequate funding, adequate operator staffing and training, and adequate laboratory and process controls, including appropriate quality assurance procedures.

The permittee shall install and maintain appropriate backup or auxiliary facilities if they are necessary to achieve compliance with the conditions of the permit and, for all permits other than hazardous waste facility permits, if these backup or auxiliary facilities are technically and economically feasible.

G. The permittee may not knowingly make a false or misleading statement, representation, or certification in a record, report, plan, or other document required to be submitted to the agency or to the commissioner by the permit. The permittee shall immediately upon discovery report to the commissioner an error or omission in these records, reports, plans, or other documents.

H. The permittee shall, when requested by the commissioner, submit within a reasonable time the information and reports that are relevant to the control of pollution regarding the construction, modification, or operation of the facility covered by the permit or regarding the conduct of the activity covered by the permit.

I. When authorized by Minnesota Statutes, sections 115.04; 115B.17, subdivision 4; and 116.091, and upon presentation of proper credentials, the agency, or an authorized employee or agent of the agency, shall be allowed by the permittee to enter at reasonable times upon the property of the permittee to examine and copy books, papers, records, or memoranda pertaining to the construction, modification, or operation of the facility covered by the permit or pertaining to

the activity covered by the permit; and to conduct surveys and investigations, including sampling or monitoring, pertaining to the construction, modification, or operation of the facility covered by the permit or pertaining to the activity covered by the permit.

J. If the permittee discovers, through any means, including notification by the agency, that noncompliance with a condition of the permit has occurred, the permittee shall take all reasonable steps to minimize the adverse impacts on human health, public drinking water supplies, or the environment resulting from the noncompliance.

K. If the permittee discovers that noncompliance with a condition of the permit has occurred which could endanger human health, public drinking water supplies, or the environment, the permittee shall, within 24 hours of the discovery of the noncompliance, orally notify the commissioner. Within five days of the discovery of the noncompliance, the permittee shall submit to the commissioner a written description of the noncompliance; the cause of the noncompliance; the exact dates of the period of the noncompliance; if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.

L. The permittee shall report noncompliance with the permit not reported under item K as a part of the next report which the permittee is required to submit under this permit. If no reports are required within 30 days of the discovery of the noncompliance, the permittee shall submit the information listed in item K within 30 days of the discovery of the noncompliance.

M. The permittee shall give advance notice to the commissioner as soon as possible of planned physical alterations or additions to the permitted facility or activity that may result in noncompliance with a Minnesota or federal pollution control statute or rule or a condition of the permit.

N. The permit is not transferable to any person without the express written

approval of the agency after compliance with the requirements of part 7001.0190. A person to whom the permit has been transferred shall comply with the conditions of the permit.

O. The permit authorizes the permittee to perform the activities described in the permit under the conditions of the permit. In issuing the permit, the state and agency assume no responsibility for damage to persons, property, or the environment caused by the activities of the permittee in the conduct of its actions, including those activities authorized, directed, or undertaken under the permit. To the extent the state and agency may be liable for the activities of its employees, that liability is explicitly limited to that provided in the Tort Claims Act, Minnesota Statutes, section 3.736.

P. Compliance with an RCRA permit during its term constitutes compliance, for purposes of enforcement, with subtitle C of RCRA except for those requirements not included in the permit which:

(1) become effective by statute;

(2) are adopted under parts 7045.1300 to 7045.1380, restricting the placement of hazardous wastes in or on the land; or

(3) are adopted under parts 7045.0450 to 7045.0548 regarding leak detection systems for new and replacement surface impoundment, waste pile, and landfill units, and lateral expansions of surface impoundment, waste pile, and landfill units. The leak detection system requirements include double liners, construction quality assurance programs, monitoring, action leakage rates, and response action plans, and will be implemented through the procedures of part 7001.0730, minor permit modifications.

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## *St. Paul District - Corps of Engineers*

### **GP/LOP-98-MN - Section 404 Activities in Minnesota.** This is a summary. Refer to the permit for complete details and conditions.

<b>Activities not covered →</b>	GP/LOP-98-MN <b>DOES NOT COVER</b> discharges of dredged/fill material into calcareous fens and wetlands within 300 feet of calcareous fens, or into Federal Wild and Scenic Rivers, or for any activity that is part of a project that would divert more than 10,000 gallons of surface or ground water per day into or out of the Great Lakes Basin. Such discharges require evaluation under Corps standard individual permit procedures.
<b>GP</b>  <b>(Non-reporting)</b>	<p>Covers discharges of dredged/fill material for maintenance of existing structures or fills (1/3-acre impact limit), bank protection, utility line installation, 404 activities for USCG-approved bridges, return water, oil/hazardous substance spill cleanup, structural discharges, completed enforcement actions, wetland/stream restoration/creation activities, moist soil management by Federal/state agencies and minor discharge activities that directly and indirectly impact less than 400 square feet of water/wetland area (refer to detailed permit descriptions and conditions for all activities).</p> <ul style="list-style-type: none"> <li>No pre-project application or notification to COE is required if all GP conditions are met and, if in Special Waters * (see below), project impacts less than 400 sq. ft. of water/wetland area. Some activities in Special Waters may be eligible for authorization under a GP or LOP below.</li> <li>Discharges for oil/hazardous substance spill cleanup activities in ALL areas, and bank protection and public road and utilities maintenance if not in or within 300 feet of a calcareous fen, are not subject to Special Waters restrictions. MDNR must be notified in advance of road and utility maintenance projects in wetlands near trout streams in some SE MN counties as indicated in the permit.</li> </ul>
<b>LOP A</b>	<p>Covers bank protection and utility line projects that fail to meet GP limits or criteria, the above-listed GP activities in special waters, and temporary construction/access/dewatering, and toxic waste management (refer to detailed permit descriptions and conditions for all activities).</p> <ul style="list-style-type: none"> <li>Application to COE and written authorization from COE required.</li> <li>COE internal review only unless Special Waters* are involved. COE conducts a 15-day public/interagency review if Special Waters are involved AND total project impact exceeds 400 sq. ft. of water/wetland area.</li> </ul>
<b>LOP B</b>	<p>Covers activities that impact more than 400 square feet (sq. ft.) but less than 2 acres of wetland/water area.</p> <ul style="list-style-type: none"> <li>Application to COE and written authorization from COE required.</li> <li>COE internal review only except COE conducts a 30-day public/interagency review (via Internet) if Special waters* are involved and/or total project impact exceeds 10,000 sq. ft.:</li> <li>Appropriate compensatory mitigation required if mitigation threshold exceeded (see **below).</li> </ul>
<b>LOP C</b>	<p>Covers activities regulated and approved pursuant to the Minnesota Wetland Conservation Act (MWCA). May include additional impacts not regulated by MWCA within the 2-acre total water/wetland impact limit.</p> <ul style="list-style-type: none"> <li>Application to COE and LGU required. Written authorization from COE required.</li> <li>Applicant or LGU must provide COE complete WCA evaluation and action information, including any approved/required compensatory mitigation.</li> <li>COE internal review only unless impacts exceed 10,000 sq. ft.</li> <li>15-day public/interagency review if impacts exceed 10,000 sq. ft.</li> <li>Appropriate compensatory mitigation required if mitigation threshold exceeded (see ** below).</li> </ul>
<b>LOP D</b>	<p>Covers public road projects to improve/upgrade EXISTING roads (5-acre total project water/wetland impact limit).</p> <ul style="list-style-type: none"> <li>Application to COE required. Written authorization from COE required.</li> <li>30-day public/interagency review if impacts exceed 10,000 sq. ft.</li> <li>Appropriate compensatory mitigation required if mitigation threshold exceeded (see ** below).</li> </ul>
<b>*Special Waters</b>	Special Waters are state-designated trout waters, state-designated Outstanding Resource Value Waters, state-protected lakes/wetland greater than 10 acres in size as designated by the MDNR "Public Waters/wetlands Inventory" maps, and all water/wetland areas that are adjacent to and within 300 feet of these waterbodies.
<b>**Mitigation thresholds</b>	**Thresholds for compensatory mitigation requirement are based on MWCA de minimis thresholds: 400 sq. ft. in shoreland area, 2,000 sq. ft. in less than 50% county, 5,000 sq. ft. in 50-80% county, 10,000 sq. ft. in 80%+ county. If the threshold is exceeded, compensatory mitigation is required for ALL wetland impacts.